

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

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| IN RE: LTDS CORPORATION, Complainant, vs. QWEST CORPORATION, Respondent. | DOCKET NO. FCU-03-51 |
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**ORDER INITIATING FORMAL COMPLAINT PROCEEDING AND
ASSIGNING TO ADMINISTRATIVE LAW JUDGE**

(Issued November 25, 2003)

On October 22, 2003, LTDS Corporation (LTDS) filed a written complaint against Qwest Corporation (Qwest) with the Utilities Board (Board) regarding an alleged violation of the Interconnection Agreement (Agreement) between LTDS and Qwest. LTDS alleged that Qwest refused to provide products and services to which LTDS is entitled under the Agreement. LTDS filed its complaint pursuant to Iowa Code §§ 476.101(8) and 476.3(1), 199 IAC 6, and the Agreement. LTDS requested the Board docket its complaint as a formal complaint proceeding and establish an expedited procedural schedule pursuant to Iowa Code § 476.101(8).

On November 12, 2003, Qwest filed an answer to the complaint. In its response, Qwest asserts that it is not required by the Agreement to provide the products and services which LTDS requested.

Iowa Code § 476.3(1) states that a petition to initiate a formal proceeding “shall be granted if the board determines that there is any reasonable ground for investigating the complaint.” See also 199 IAC 6.5. In reviewing the complaint filed by LTDS and the response filed by Qwest, the Board finds that there are reasonable grounds for investigating the complaint. The parties have been in discussion regarding these issues for several months with no resolution and an informal proceeding is not likely to lead to a resolution. Therefore, the Board will docket the matter as a formal complaint proceeding, identified as Docket No. FCU-03-51.

LTDS requests an expedited procedural schedule pursuant to § 476.101(8), which provides that when a complaint is filed with the Board concerning a local exchange carrier's compliance with the provisions of Iowa Code §§ 476.96 through 476.102, or any Board rules implementing those sections, the Board must render its decision within 90 days after the complaint is filed. LTDS did not specifically identify any of the substantive provisions of §§ 476.96 through 476.102 (or the associated rules) as a basis for its complaint, so it is not clear that the 90-day time limit of § 476.101(8) is applicable to this docket. (Section 476.101(8) itself is a procedural provision, rather than a separate basis for complaint jurisdiction.) Nonetheless, the Board believes the parties will benefit from quick resolution of this matter. Therefore,

pursuant to Iowa Code § 17A.11(1)"b" and 199 IAC 7.1(4), the Board will assign this matter to an administrative law judge (ALJ) for further proceedings. As the matter stands, the 90-day limit of § 476.101(8) does not apply, but the ALJ should take appropriate steps to resolve this matter in a timely manner.

IT IS THEREFORE ORDERED:

1. The complaint filed by LTDS Corporation on October 22, 2003, is docketed as a formal complaint proceeding, identified as Docket No. FCU-03-51, pursuant to Iowa Code § 476.3(1) (2003) and 199 IAC 6.5(3).
2. Pursuant to Iowa Code § 17A.11(1) (2003), this matter is assigned to the Board's administrative law judge to conduct a hearing in this matter and issue a proposed decision.
3. The ALJ shall have the authority provided under 199 IAC 7.1(4)"a"—"j."

UTILITIES BOARD

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Sharon Mayer
Executive Secretary, Assistant to

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 25th day of November, 2003.